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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,967	08/04/2003	Joshua Ray Oliver	JRO 3001	4487
30868	7590	05/28/2004	EXAMINER	
KRAMER & AMADO, P.C. 2001 JEFFERSON DAVIS HWY SUITE 1101 ARLINGTON, VA 22202				JIMENEZ, MARC QUEMUEL
ART UNIT		PAPER NUMBER		
		3726		

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/632,967	OLIVER, JOSHUA RAY
	Examiner	Art Unit
	Marc Jimenez	3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11-14 is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>08042003</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 301 (see page 8, line 4 of specification). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1-10** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “the channel” in the last two lines. In reading the claim, it is unclear whether the first or the second channel is being referred to.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1 and 5-9** are rejected under 35 U.S.C. 102(b) as being anticipated by Low (128,641).

Low teaches a tool comprising: a rigid device having two perpendicular intersecting channels **a** (and the channel formed between **B and C**) formed on a first end and having a depth extending towards an opposite second end, the first channel **a** adapted to receive a truck baseplate, the second channel (formed between **B and C**) adapted to receive a kingpin mounted onto a truck baseplate and having an opening on at least one end of the channel extending along a predetermined depth of the channel.

Regarding claim 5, the second channel is closed at one end by **M**.

Regarding claims 6-7, the bolt receiving recess (where **M** fits into) which extends below the intersection point of the two channels.

Regarding claims 8-9, the second channel has a width of approximately between 1.5 and 4 inches because the width can be adjusted by **E**.

6. **Claims 1, 2, and 5-7** are rejected under 35 U.S.C. 102(b) as being anticipated by Chin et al. (4,847,119).

Chin et al. teach a rigid device having two perpendicular intersecting channels **34,32** formed on a first end and having a depth extending towards an opposite second end, the first channel **34** adapted to receive a truck baseplate, the second channel **32** adapted to receive a

kingpin mounted onto a truck baseplate and having an opening on at least one end of the channel  
**32.**

Regarding claim 2, the first channel **34** is closed at the opposite second end.

Regarding claim 5, the second channel **32** is closed at one end.

Regarding claims 6-7, the closed end of the second channel **32** includes a bolt receiving recess **40** which extends below the intersection point of the two channels.

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Low.

Low teaches the invention cited with the exception of the tool being manufactured in plastic.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have selected the claimed material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Furthermore, official notice is taken that it was well known to a person of ordinary skill in the art, at the time of the invention, to have made the tool out of plastic in order to provide a rust proof tool.

9. **Claims 3, 4, and 8-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chin et al.

Chin et al. teach the invention cited with the exception of the width of the first channel being between 2 and 5 inches as recited in claim 3, the width of the first channel being between 3 and 4 inches as recited in claim 4, width of the second channel being approximately between 1 and 6 inches as recited in claim 8, and the width of the second channel being approximately between 1.5 and 4 inches as recited in claim 9.

At the time of the invention, it would have been an obvious matter of design choice to a person of ordinary skill in the art, to have used the claimed sizes because applicant has not disclosed that the claimed sizes provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with either the sizes taught by Chin et al. or the claimed sizes because either size performs the same function of holding a workpiece equally well considering the particular size of the workpiece.

Regarding claim 10, Chin et al. teach the invention cited with the exception of the tool being manufactured in plastic.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have selected the claimed material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Furthermore, official notice is taken

that it was well known to a person of ordinary skill in the art, at the time of the invention, to have made the tool out of plastic in order to provide a rust proof tool.

***Allowable Subject Matter***

10. Claims 11-14 are allowed.

***Contact Information***

11. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**. The examiner can normally be reached on **Monday-Friday, between 5:30 am- 2:00 pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the

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organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>



Marc Jimenez  
Patent Examiner  
AU 3726

**MJ**

May 26, 2004